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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,898	01/14/2004	Jeffrey K. Daniel	123018.0008.000	3104

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Houston IP Department
JACKSON WALKER L.L.P.
1401 McKinney St.
Suite 1900
Houston, TX 77010

EXAMINER

BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

MAIL DATE	DELIVERY MODE
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08/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/756,898	Applicant(s) DANIEL, JEFFREY K.	
	Examiner Rodney H. Bonck	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 16-24, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 16-24, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 20, 2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9-12, 14, 16-24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoff et al.('994) in view of Hendrickson('641). The Hoff et al. device discloses a system comprising a power input shaft 27, a power output shaft 46, agricultural machinery 44 coupled to the power output shaft, and a right-angle gearbox and clutch system. The right-angle gearbox and clutch system has a right angle gear

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mechanism 30, 35 and a clutch mechanism disposed between the right angle gear mechanism and the power output shaft. An enclosure 53, together with housing 20, encloses the clutch mechanism. It appears that the presence of a "grease-retaining, dust-excluding washer" in Hoff et al. would imply the presence of lubricant within the clutch mechanism, it would clearly have been obvious if view of Hendrickson to provide lubricant in the clutch enclosure, the motivation being to cool and lubricate the system. Hendrickson discloses a right angle gearbox and clutch system having a right angle gear mechanism 60, 62 and wet, slip clutch assembly 64. The gear enclosure and clutch enclosure are in fluid communication. Thus, the same lubricant is used for both. With separate enclosures for the gearing and clutch, as in Hoff et al., it would have been obvious to use different lubricants where different lubricants are better suited to each of the clutch and gearing. While the Hoff et al. agricultural device is hand-held, it would have been obvious to size it to be coupled to and powered by a vehicle PTO, as suggested by Hendrickson.

Claims 8 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoff et al.('994) in view of Hendrickson('641) as applied to claims 1-7, 9-12, 14, 16-24 and 27 above, and further in view of Howard('274). Howard discloses a right angle gearbox and clutch system that is external to a vehicle and external to the driven equipment. The clutch 31 is adapted for connection to the PTO of a vehicle, such as a tractor, and flange 58 is adapted to connection to the driven implement. While it appears that the device taught by Hoff et al. and Hendrickson would be external to the

vehicle and external to the equipment, it would at least have been obvious from Howard to provide it as an external system. Thus is known in the art and would have yielded predictable results to one having ordinary skill in this art at the time of the invention.

Response to Arguments

Applicant's arguments with respect to claims 1-12, 14, 16-24, 27 and 28 have been considered but are moot in view of the new ground(s) of rejection. The previous rejections are withdrawn in favor of the newly applied art. It is noted that applicant argues that "Howard fails to mention a clutch at all anywhere in the specification". In this regard, attention is directed to column 2, lines 24-36, of Howard. Coupling 31 is a clutch. Also, see Fig. 1 of Howard. Coupling 31 would have been recognized by the artisan as an overload slip clutch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571) 272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney H. Bonck/
Primary Examiner, Art Unit 3681

rhb
August 4, 2008